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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/564,320

01/10/2006

Odd Slettayen

OPA 327

7524

7590  
Anton E. Skaugset  
Kolisch Hartwell, P.C.  
200 Pacific Building  
520 S.W. Yamhill Street  
Portland, OR 97204

06/11/2008

EXAMINER

NICHOLS, CHRISTOPHER S

ART UNIT

PAPER NUMBER

1791

MAIL DATE

DELIVERY MODE

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/564,320	<b>Applicant(s)</b> SLETTAYEN, ODD	
	<b>Examiner</b> Christopher S. Nichols	<b>Art Unit</b> 1791	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 10 January 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10 January 2006 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>4/20/2006</u> .   | 6) <input type="checkbox"/> Other: _____                          |

**PROCESS FOR PRODUCING A MATTRESS**

*Drawings*

1. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference characters "2" and "5" have both been used to designate molding substance. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

2. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference character "5" has been used to designate both molding substance and core. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR

1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-3 are rejected under 35 U.S.C. 102(b) as being anticipated by Applicant's Admitted Prior Art (see Specification at Page 1 line 7-31; see also Page 2 line 1-10).

Regarding **Claim 1**, Applicant's Admitted Prior Art teaches a process for manufacturing a mattress comprising a bottom piece, longitudinal pieces, cross pieces, a top piece, and a core (see Specification at Page 1 line 7-31; see also Page 2 line 1-10). The pieces are joined by a liquid substance of the same material as the pieces (see Specification at Page 1 line 7-31; see also Page 2 line 1-10). The liquid substance is applied in the contact area between the pieces only (see Specification at Page 1 line 23-31; see also Page 2 line 1-10). A statement by an applicant in the specification or made during prosecution identifying the work of another as "prior art" is an admission which can be relied upon for both anticipation and obviousness determinations, regardless of whether the admitted prior art would otherwise qualify as prior art under the

statutory categories of 35 U.S.C. 102. *Riverwood Int 'l Corp. v. R.A. Jones & Co.*, 324 F.3d 1346, 1354, 66 USPQ2d 1331, 1337 (Fed. Cir. 2003); *Constant v. Advanced Micro-Devices Inc.*, 848 F.2d 1560, 1570, 7 USPQ2d 1057, 1063 (Fed. Cir. 1988).

Regarding **Claims 2-3**, Applicant's Admitted Prior Art teaches the pieces comprise polyurethane which may be brought into a liquid state and subsequently hardened (see Specification at Page 1 line 7-31).

### ***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 4-10 rejected under 35 U.S.C. 103(a) as being unpatentable over Applicant's Admitted Prior Art (see Specification at Page 1 line 7-31; see also Page 2 line 1-10) as applied to claims 1-3 above, and further in view of Bryant et al. (US 2003/0019043 A1), hereafter Bryant.

Regarding **Claim 4**, Applicant's Admitted Prior Art teaches a process for manufacturing a mattress comprising a bottom piece, longitudinal pieces, cross pieces, a top piece, and a core (see Specification at Page 1 line 7-31; see also Page 2 line 1-10). The process comprises (1) laying out the bottom piece, (2) applying a molding substance to the longitudinal edges on one surface side of the bottom piece, (3) lowering the longitudinal pieces into the molding substance

to harden, (4) applying a molding substance on the same surface side of the bottom pieces between the longitudinal pieces, (5) lowering a core into the molding substance to harden, and (5) lowering a top piece is provided with molding substance and turned with the molding substance facing the longitudinal pieces to harden (see Specification at Page 1 line 7-31; see also Page 2 line 1-10).

Applicant's Admitted Prior Art teaches threading and the cross pieces and then gluing the edges to the other pieces with an adhesive (see Specification at Page 2 line 1-10). Applicant's Admitted Prior Art does not teach lowering cross pieces into the molding substance as recited in Step (III). Bryant teaches a method of making a mattress wherein a housing is constructed by securing longitudinal pieces and cross pieces to a bottom piece (see Page 2 Paragraph [0031]-[0032]; see also Fig. 3). Subsequently, a core piece is lowered into the housing and a top piece is placed on the top of the housing and core (see Page 2 Paragraph [0031]-[0032]; see also Fig. 3). The longitudinal pieces and cross pieces are secured to the bottom piece using an adhesive (see Page 2 Paragraph [0036]-[0037]). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to use the method of securing cross pieces to a bottom piece taught by Bryant et al. in the method taught by Applicant's Admitted Prior Art because one of ordinary skill in the art would have been able to carry out such a substitution to achieve the predictable result of securing cross pieces to a bottom piece in a mattress manufacturing process. "The combination of familiar elements according to known methods is likely to be obvious when it does no more than yield predictable results." *KSR Int'l Co. v. Teleflex Inc.*, 127 S.Ct. 1727, 82 USPQ2d 1385 (2007).

Regarding **Claim 5**, Bryant et al. teaches applying an adhesive (molding substance) under the edges of the longitudinal pieces and cross pieces (see Paragraph [0036]-[0040]). In addition, it would have been obvious to one of ordinary skill in the art at the time of the invention to change the sequence of steps of the process. Changing the sequences of steps is prima facie obvious. *Ex parte Rubin*, 128 USPQ 440 (Bd. App. 1959) (Prior art reference disclosing a process of making a laminated sheet wherein a base sheet is first coated with a metallic film and thereafter impregnated with a thermosetting material was held to render prima facie obvious claims directed to a process of making a laminated sheet by reversing the order of the prior art process steps.). See also *In re Burhans*, 154 F.2d 690, 69 USPQ 330 (CCPA 1946) (selection of any order of performing process steps is prima facie obvious in the absence of new or unexpected results).

Regarding **Claim 6**, Applicant's Admitted Prior Art teaches lowering a core into the molding substance (see Specification at Page 1 line 7-31; see also Page 2 line 1-10), i.e. applying a molding substance to the underside of the core.

Regarding **Claims 7-8**, one of ordinary skill in the art at the time of the invention would recognize that changing the sequence of the process steps has minimal effect on the outcome of the process. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to change the sequence of steps of the process. Changing the sequences of steps is prima facie obvious. *Ex parte Rubin*, 128 USPQ 440 (Bd. App. 1959) (Prior art reference disclosing a process of making a laminated sheet wherein a base sheet is first coated with a metallic film and thereafter impregnated with a thermosetting material was held to render prima facie obvious claims directed to a process of making a laminated sheet by reversing the order of

the prior art process steps.). See also *In re Burhans*, 154 F.2d 690, 69 USPQ 330 (CCPA 1946) (selection of any order of performing process steps is prima facie obvious in the absence of new or unexpected results).

Regarding **Claim 9**, Applicant's Admitted Prior Art teaches applying adhesive to the corner joints between the longitudinal pieces and cross pieces (see Specification at Page 2 line 1-10).

Regarding **Claim 10**, one of ordinary skill in the art at the time of the invention would recognize that automating an activity would increase production speed, capacity and efficiency. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to automate the process steps. "[P]roviding an automatic or mechanical means to replace a manual activity which accomplished the same result is not sufficient to distinguish over the prior art." *In re Venner*, 262 F.2d 91, 95, 120 USPQ 193, 194 (CCPA 1958).

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher S. Nichols whose telephone number is (571) 270-3969. The examiner can normally be reached on Monday thru Thursday 7:30 AM to 5:00 PM EST. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christina Johnson can be reached on (571) 272-1176. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications



may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

**/Christopher S. Nichols/  
Examiner, Art Unit 1791**

**/Richard Crispino/  
Supervisory Patent Examiner, Art Unit 1791**